

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

James Chappell,  
 Petitioner

v.

William Reubart,<sup>1</sup> et al.,  
 Defendants

Case No.: 2:16-cv-00645-JAD-VCF

**Order Reopening Case and Scheduling  
 Further Proceedings**

[ECF No. 56]

Petitioner James Chappell moves to vacate the stay I imposed on November 1, 2016,<sup>2</sup> and to reopen this capital habeas corpus action.<sup>3</sup> The purpose of the stay was to allow Chappell to exhaust claims in state court. In his motion, Chappell states that his state-court proceedings have concluded. Respondents do not oppose the motion.<sup>4</sup> Good cause appearing, I grant the motion and schedule further proceedings.

**IT IS THEREFORE ORDERED** that Chappell's Motion to Vacate Stay and Reopen Capital Habeas Proceedings [ECF No. 56] **is granted**. The stay of this action is lifted.

**IT IS FURTHER ORDERED** that the following schedule will govern further proceedings in this action:

**1. Amended Petition.** Chappell has until February 21, 2023, to file a second amended petition for writ of habeas corpus. The second amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted

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<sup>1</sup> Chappell's current custodian, William Reubart, is substituted for Timothy Filson as the primary respondent in this case. *See* Fed. R. Civ. P. 25(d).

<sup>2</sup> ECF No. 36.

<sup>3</sup> ECF No. 56.

<sup>4</sup> ECF No. 57.

1 in state court, the second amended petition must state how, when, and where that occurred.

2       **2. Response to Petition.** Respondents will have **60 days** following the filing of the  
3 second amended petition to file an answer or other response to the second amended petition.

4       **3. Reply and Response to Reply.** Chappell will have **45 days** following the filing of an  
5 answer to file a reply. Respondents will thereafter have **30 days** following the filing of a reply to  
6 file a response to the reply.

7       **4. Briefing for Motion to Dismiss.** If Respondents file a motion to dismiss, Chappell  
8 will have **60 days** following service of the motion to file a response to the motion. Respondents  
9 will thereafter have **30 days** following the filing of the response to file a reply.

10       **5. Discovery.** If Chappell wishes to move for leave to conduct discovery, he must file  
11 such motion concurrently with, but separate from, the response to respondents' motion to dismiss  
12 or the reply to respondents' answer. Any motion for leave to conduct discovery filed by  
13 Chappell before that time may be considered premature, and may be denied without prejudice on  
14 that basis. Respondents must file a response to any such motion concurrently with, but separate  
15 from, their reply in support of their motion to dismiss or their response to Chappell's reply.  
16 Thereafter, Chappell will have **20 days** to file a reply in support of the motion for leave to  
17 conduct discovery.

18       **6. Evidentiary Hearing.** To request an evidentiary hearing, Chappell must file a motion  
19 for an evidentiary hearing concurrently with, but separate from, the response to respondents'  
20 motion to dismiss or the reply to respondents' answer. Any such motion filed by Chappell  
21 before that time may be considered premature, and may be denied without prejudice on that  
22 basis. The motion for an evidentiary hearing must specifically address why an evidentiary  
23 hearing is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must  
24 state whether an evidentiary hearing was held in state court and, if so, state where the transcript

1 is located in the record. If Chappell files a motion for an evidentiary hearing, respondents must  
2 file a response to that motion concurrently with, but separate from, their reply in support of their  
3 motion to dismiss or their response to Chappell's reply. Thereafter, Chappell will have **20 days**  
4 to file and serve a reply in support of the motion for an evidentiary hearing.

5 Dated: December 20, 2022

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Jennifer A. Dorsey  
United States District Judge  
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